NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

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Legality of FBI Secrecy Argued

Drs. May Get CPS Credit

The so-called doctors draft law, an amendment to the Selective Service Act of 1948, expires July 1 of this year. Congressional committees are working on a two-year extension which, if passed, will be an amendment to the present draft law.

In the proposed extension of the doctors draft as it has gone to the appropriate Senate and House committees, credit is given for time in CPS on an equal basis with time spent in the armed forces. The House Committee on Armed Services held hearings on the bill and reported it out retaining the provision for CPS credit.

Dr. Joseph Stokes, Jr., Physician-in-Chief of Children's Hospital in Philadelphia, and Professor of Pediatrics at the University of Pennsylvania Hospital, testified before the House committee for the Friends Committee on National Legislation and the Friends Medical Society. Dr. Stokes testified that Friends (Quakers) were opposed to the extension of the conscription of doctors, but that if the law is to be extended credit should be given for CPS service. Representatives of the National Service Board for Religious Objectors, Brethren Service Commission, and Mennonite Central Committee also testified on this point, and a similar statement was submitted for the Methodist Board on World Peace.

The initial action for getting CPS credit written into the bill was taken by the American Friends Service Committee.

The American Medical Association also supported CPS credit. Only the pacifist organizations opposed the extension of the doctors draft.

Administrative Relief Possible

The pacifist organizations working in Washington have been attempting to get Selective Service to issue regulations under the present law which would recognize CPS time. No such regulations have been issued, and General Hershey has maintained that such regulations are not possible under the present law. However, Hershey has agreed to consider time in CPS as a factor in granting requests for release in less than 24 months from the present civilian service program. One doctor who spent nearly two years in CPS has now obtained his release on this basis. Men released from assigned civilian work before the expiration of the full 24 months period are given credit for their full legal requirement and classified I-W (Rel.), the same as if they had been in the program 24 months. Men classified I-W (Rel.) are reclassified V-A when they pass the maximum age for liability for military duty.

U.S. Supreme Court Hears Argument on Nugent and Parker Appeals

Argument on the legality of the use of secret FBI reports in the C.O. appeal procedure was heard by the U.S. Supreme Court May 1 and May 4. The use of these reports without full disclosure to the registrant and the appeal board was the main point of law in the cases of U.S. vs. Harry Nugent and U.S. vs. Lester Packer. In these cases which were consolidated on appeal, the Second Circuit Court of Appeals ruled unanimously that the present use of the FBI report is contrary to the intent of Congress in the draft law. The Second Circuit reversed the convictions of Nugent and Packer who had previously been tried in the District Court for refusal to submit to induction. The Department of Justice appealed the reversal of conviction.

The government opened the argument before the court the afternoon of Friday, May 1. Justice Jackson was absent because of illness, so the case was heard by only eight judges instead of the full court of nine.

As the government attorney started to explain the nature of the case to the court, he was interrupted by Justice Minton with a series of questions as to how the case happened to be before the court at all. The questions were such as: Aren't the findings of the local board final? How can this matter be raised in defense of a criminal proceding? Can the question of illegal classification be raised? Justice Minton gave the impression of having a complete lack of knowledge as to the legal status of judicial review of draft classifications. The attorney for the U.S. attempted a brief explanation of the scope of judicial review, but Minton seemed unconvinced.

Soon after the exchange with Minton, Justice Frankfurter interrupted the government for exact details as to the nature of and the use of the FBI report in the C.O. appeal procedure. It was explained that the report contained the names and addresses of all persons interviewed by the FBI in the course of the investigation as well as all of the information collected from these informants. The government admitted that at no stage in the proceedings is the report available to the registrant or any part of the Selective Service System, including the appeal boards. Only the Department of Justice officials, including the Hearing Officer, have the full FBI report available.

The government attorney explained that the recom-

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Briefly Noted

CCCO received unexpected newspaper publicity recently when the Press Gazette of Green Bay, Wis., reprinted in full a CCCO appeal letter. It was printed as a letter to the editor. The appeal was signed by Clarence Pickett and Harry Emerson Fosdick and went to 10,000 persons not on our regular mailing list.

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Attorneys will be interested in the article "Habeas Corpus and Judicial Review of Draft Classifications" printed in the Winter issue of the Indiana Law Journal. The article supports a broader scope of judicial review as represented by the Fabiani decision (105 F. Supp. 138).

* * * *

Persons interested in pacifism from the point of view of Judaism will want to read "The Jewish Tradition of Peace," a reprint from Fellowship Magazine. Copies may be obtained for ten cents each from the Jewish Peace Fellowship, 132 Morningside Drive, New York City 27, New York.

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Since NEWS NOTES is distributed without charge it is possible to accumulate some persons on the mailing list who have lost interest in the work of CCCO and the status of conscientious objectors. To prevent this loss of funds double cards are going out in the next few weeks to all persons on the mailing list who have been on the list for more than two years without making a contribution or having correspondence with the office. Persons who receive these cards should mail CCCO the return card if they wish to remain on the mailing list. NEWS NOTES is sent without obligation to all of those interested, and the only purpose of the cards is to assure that those getting the information are interested in it.

* * * *

Hayden Covington, general counsel for the Jehovah's witnesses, reports that there were 99 J.W.'s in prison as of March 5, 1953. He estimates that approximately 100 others are facing prosecution at the present time for violation of the draft law. The J.W.'s are usually conscientious objectors but not pacifists. However, it is generally their insistence on IV-D classification as ministers which gets them into difficulty with the law rather than their conscientious objection.

CORRECTION

The story on second prosecutions in the April, 1953 issue of NEWS NOTES indicated that all of the Iowa cases were dismissed because of the activity of the defense attorney which resulted in the proper classification of the men in accordance with the draft law.

Two of the men involved in these cases, David Jensen and Russell Henderson, did not, as a matter of principle, retain an attorney nor allow an attorney to represent them. However, their cases were eventually handled by officials in the same manner as the other cases without the cooperation of the men.

Department of Wishful Thinking

Memphis, Tenn.—Anthony Shipp, 19, told the judge at his trial for registering for selective service one year late: "I didn't think the draft board would mind." Shipp was sentenced to 18 months in jail.

from United Press as reported in the Shenandoah (Pa.) Evening Herald

Sereda Loses First Round

In a decision dated April 9 the Immigration and Naturalization Service has ordered Vasyl Sereda deported. The decision is being appealed. The order cannot go into effect prior to his release from Petersburg.

Sereda is a conscientious objector serving a 3½-year sentence for failure to report for induction into the army. He was born and raised in the Ukraine and came to this country with his family in February of 1950. During World War II the Seredas were interned in a slave labor camp by Hitler.

When he registered for the draft Sereda did not have much understanding of English. He told the clerk of the local board that he was a conscientious objector, and eventually he was classified I-A-O, available for noncombatant duty as a C.O. The possibility of civilian work was not explained to him. He refused to be inducted into the army.

After Sereda's incarceration in the Federal Reformatory at Petersburg, Virginia, he was served with a warrant of arrest by the Immigration and Naturalization Service. The warrant started the deportation proceedings against Sereda under a 1917 statute which provides for the deportation of any alien who commits a crime involving moral turpitude within five years of his entry into this country.

Oliver E. Stone of Washington, D.C., Sereda's attorney, is defending the case on the grounds that a conviction for violation of selective service because of conscientious objection does not involve moral turpitude.

Sydow Not an Objector

Although originally listed in the NEWS NOTES Court Reporter, the status of Stanley Sydow has now been clarified, and he states that he is not a conscientious objector. He made no claim as a conscientious objector either in court or before his local draft board. Sydow was visited in prison at Springfield, Missouri, April 7, by Lyle Tatum, executive secretary of the Central Committee for Conscientious Objectors. At that time Sydow reported that he was not a conscientious objector, but that his mother is, and it is she who has sought the aid of pacifist agencies.

Sydow was sentenced to three years in prison last fall for failure to report for induction. He subsequently agreed to enter the armed forces, and his sentence has been reduced to five months. The case was highly publicized on the basis of the legal defense that the Korean war is illegal. This argument was rejected by the court. It had previously been rejected by the Second Circuit Court of Appeals.

SUPREME COURT HEARS NUGENT

(Continued from page 1)

mendation of the Hearing Officer was not just rubber-stamped by the Department of Justice but reversed in about 5% of the cases and always carefully reviewed. Justice Frankfurter then asked if it did not make it all the more important that the appeal board see the FBI report since there is room for this difference in evaluation. Throughout the presentation of the government's case and that of Nugent and Packer, Frankfurter actively participated by asking questions which seemed to indicate favor of disclosure of the FBI reports. He was aware of these apparently slanted questions and remarked that he was not pre-judging the case.

The government's two points were that the present procedure meets both the intent of Congress and the Constitutional requirement of due process of law.

Covington Presents Argument

Hayden Covington, general counsel for the Jehovah's witnesses, presented the oral argument for Nugent and Packer. Herman Adlerstein of New York City was also on the brief and assisted Covington before the Supreme Court. Adlerstein was the successful defense attorney for both Nugent and Packer before the Second Circuit Court of Appeals, and Covington joined Adlerstein for the Supreme Court appeal. Neither Nugent nor Packer is a J.W. However, the first acquittals because of the secret FBI report were obtained by Hayden Covington in two J.W. cases before Judge J. Joseph Smith in U.S. District Court at Hartford, Conn., July 28, 1952.

As a preface to his argument on the points of law involved, Covington remarked that he would like to refresh Justice Minton's memory on the scope of judicial review. He cited the Estep case and the Cox case, but Minton interrupted gruffly to say that he'd read those cases and he was in agreement with them.

Then before Covington could start the presentation of his case, the court began remarking on the length of the 203-page Nugent-Packer brief. Justice Clark pointed out that the government was an expert in the field of bulky writing and had twelve years of selective service experience yet only produced a brief of 75 pages. Chief Justice Vinson remarked that it should be remembered that the court could restrict the length of briefs and might find it necessary to do so. Hayden Covington pointed out that he wished to cover everything and that his argument was summarized in the brief and well indexed. Although the court obviously would have preferred a shorter brief, the exchange was carried on in good humor.

Each party is allotted exactly one hour of oral argument, including the time taken by questions from the court. The questions and answers during the presentations by both parties took up considerable time as the judges followed the argument closely and frequently interrupted with questions. The refreshing of Minton's memory and the discussion of the size of the briefs used most of the approximately twenty minutes available to Hayden Covington before the court's adjournment at 4:30 Friday afternoon.

With the preliminaries out of the way, Covington got directly into the Nugent-Packer case on Monday afternoon, May 4. He pointed out that, as the Second Circuit declared, the draft law required selection to be fair and just, that on the floor of the Senate and in Congressional committee hearings remarks had been made about the protection of the rights of conscience, and that our history is one of recognition of conscience. He concluded that these facts plus the specific retention of the application of Section 3 of the Administrative Procedure Act to the draft law confirmed the intent of Congress for fair play, an impossibility with classification depending on secret and unchallenged informants.

Covington also argued that due process of law requires disclosure of the FBI report to the registrant. Justice Clark asked some questions about how the system got started. The system was in process during Clark's term of office as attorney general, but it was started under Attorney-General Jackson in 1940.

Justice Frankfurter requested statistics to indicate the scope of the problem. The government brief had some World War II statistics, but it was agreed that additional up-to-date information could be filed with the court.

Justice Frankfurter asked if the question did not come down to simply whether or not the procedure is fair. Covington agreed but stated that the government had mentioned ten reasons why the FBI report should not be disclosed, "ten poisonous seeds that might even sprout in the mind of a judge." As his time ran out, Covington pointed out that there were procedural errors in the cases covered by the brief in addition to the attack on the validity of the use of the FBI report.

There is no time schedule for the handing down of Supreme Court decisions. The usual time between the hearing and the decision is four to six weeks.

Newsweek Finds a "Loophole"

In a paragraph headed "Loophole," *Newsweek* for April 27, 1953 reports, "Indications are, according to Federal agents, that there's a thriving racket afoot in draft dodgers' claiming to be conscientious objectors. As it stands now, anyone who says he's a C.O. gets what amounts to a year's deferment. Even if his draft board doesn't believe him, he can appeal to the Justice Department, and all the ensuing red tape—hearings, review, and recommendation—takes about twelve months."

Although uninformed persons frequently consider conscientious objection or claims for C.O. status as draft dodging, no official statements of government agencies have taken this position. In its work in cooperation with C.O. counseling agencies across the country, the Central Committee for Conscientious Objectors has not found "dodgers" using conscientious objection as a cloak. If there is a "thriving racket" it seems likely that through contact with local boards some such cases would become known to C.O. agencies.

CCCO is seeking clarification of the item from *Newsweek* and the Federal Bureau of Investigation. If any readers of NEWS NOTES locate cases where registrants are merely using requests for C.O. status to delay getting drafted, CCCO will appreciate reports on such cases.

THE COURT REPORTER

I PROSECUTIONS

Confirmation not previously available

2-28-52 Richard Collard, 5 yrs., (Detroit Mich.) Judge Arthur Lederle

3-13-52 Omen Swenson, 2 yrs., (Mliwaukee, Wis.) Judge Robert Tehan

3-2-53 Don Rowland, 4 yrs., (Los Angeles, Cal.) Judge William Mathes

Sentenced since last issue

4-2-53 Faetano Ranclioni, 3 yrs., (San Diego, Cal.) Judge Jacob Weinberger

4-10-53 Nehemiah Ames, 2 yrs., (San Francisco, Cal.) Judge Friedman

4-23-53 Gene Sharp, 2 yrs., (Brooklyn, N. Y.) Judge Mortimer Byers

Appeals

3-16-53 Rudy Linan, Conviction affirmed, 9th Circuit Court of Appeals

Arrests since last issue

Illinois—Henry Adamowicz, Edward Johnson
Indiana—Freeman Wingert
North Carolina—Wiley Long
New York—James Driver
South Dakota—Johnathan Medel
(All prosecutions for refusal to report for or submit to induction unless otherwise noted.)

II RELEASED FROM PRISON

On Parole

3-28-53 Grady Rogers
4-3-53 M. H. Rambo
4-13-53 Edwin White
4-15-53 George Waegell
5-8-53 Stephen Barragato

End of sentence

4-6-53 Sten Klinteberg

III MEN CURRENTLY IMPRISONED

Ashland, Ky.—Clifford Walter, Don Begeman
Chillicothe, Ohio—Carlton Owen
Danbury, Conn.—Wilbert Wilson, Paul Zimmerman, James Wenger, Marvin Katz, Ray Arvio
La Tuna, Tex.—Jack Jenewin
Milan, Mich.—Robert Suydam, Richard Smith, Richard Collard, Omen Swenson
Mill Point, W. Va.—Loy Imboden, George Ibasfalean
McNeil Island, Wash.—James MacDonald, Richard Barrett, Hubert Barnes, Glenn Peters, Clarence Bryan
Petersburg, Va.—Larry Atkins, Gordon Oehser, Vasyl Sereda, Philip Mulligan, Janney Wilson
Springfield, Mo.—Robert Beach, Willie Rogers, Robert Starkweather
Tallahassee, Fla.—Frank Laraway
Tucson, Ariz.—Rudy Linan, Roy Elder, Fred Hildebrand, Elden Taylor, Gaetano Brancaleone
Tulelake, Cal.—Frank Broderick, Emmett Blincoe, Harold Gilmore
Wickenburg, Ariz.—Dan Talmachoff, Don Rowland
Institution not verified—Robert McCorkle, Martin Mayden, Ernest Holmes, Faetano Ranclioni, Nehemiah Ames, Gene Sharp

Total number of C.O.'s convicted since 1948 to date: 200 (This is a minimum number, since J.W.'s and Muslims are not included, and we miss a few.)

Civil Disobedience Approved

The Very Reverend Dr. James A. Pike, Dean of the Cathedral of St. John the Divine and a guest professor of religion at Columbia University, recently issued a strong statement on the traditional church support of civil disobedience on the grounds of conscience. Dean Pike rejected an honorary degree from the University of the South at Sewanee, Tenn., and refused to deliver the baccalaureate sermon because of the racial segregation policy of the University.

According to the New York Times, Dean Pike told the University that it "cannot hide behide the Tennessee law."

Dean Pike stated that a law which prevents the exercise of serious ethical responsibilities should be resisted by Christians. He declared that Christians should challenge the constitutionality of such a law, seek its repeal and, "failing these two—where an important Christian principle is at stake—disobey the law."

Dean Pike also said that, "The church has never regarded the civil law as the final norm for the Christian conscience. The church has often been healthiest when it was illegal; we got our start that way."

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